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MAIL

OCT 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Kevin R. Meier, et al.
Application No: 09/425,992
Filed: October 21, 1999
For: TELESTRATOR SYSTEM

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: DECISION ON PETITION
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This is in response to the Petition to withdraw the Holding of Abandonment for the above-identified application, filed June 21, 2002 and supplemented August 12, 2002.

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed August 29, 2001. A review of the record indicates that a non-final Office Action was mailed August 29, 2001, which set a three (3) month shortened statutory period to reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. As no request for extension of time was filed, the application became abandoned November 30, 2001. Notice of Abandonment was mailed June 4, 2002.

Petitioner asserts that a proper response was in fact timely filed. In support of the petition, petitioner has submitted a date stamped post card receipt, indicating that the following items were received in the Patent and Trademark Office on January 8, 2002: (1) Transmittal Form; (2) response A to Office Action (w/copies of Exhibits A-D); (3) Petition for Extension of Time; (4) Fee Transmittal; (5) Check in the amount of \$ 1,220.00; (6) Copy of Prior Art cited in IDS of 2/12/01; and (7) Certificate of Mailing. A copy of each of these items has also been submitted except for the prior art documents listed in the IDS. It is noted that the \$1220.00 Issue Fee has been credited to the instant application.

The original correspondence filed was not matched with the file at the time the Notice of Abandonment was mailed. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as a *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but not matched with the application file.

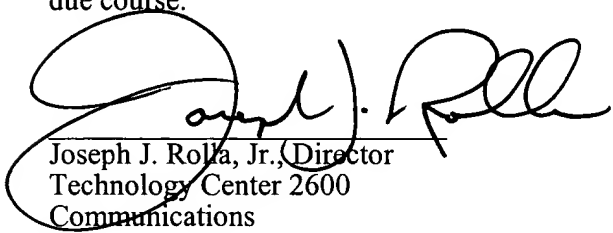
The date-stamped on the post card of January 8, 2002, is after the due date for the response with a proper on month extension of time. However, the correspondence is provided with a Certificate of Mailing dated December 17, 2001. Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or

transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for entry of the amendment. From there the application file will be forwarded to the examiner for consideration in due course.



Joseph J. Rolla, Jr. (Director
Technology Center 2600
Communications